

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DAVID HANSON, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

MGM RESORTS INTERNATIONAL, a
Delaware corporation, and COSTCO
WHOLESALE CORPORATION, a Delaware
corporation,

Defendants.

Case No. 2:16-cv-01661 RAJ

**DECLARATION OF KEVIN A. BAY
IN SUPPORT OF PLAINTIFF'S
MOTION FOR AWARD OF
ATTORNEYS' FEES, EXPENSES
AND INCENTIVE AWARD**

I, Kevin A. Bay, declare as follows:

1. I am a member of Tousley Brain Stephens PLLC, co-counsel of record for the putative class in this case. I have personal knowledge of the facts set forth herein and am competent to testify thereon. I submit this declaration in support of Plaintiff's Motion for Award of Attorney's Fees, Expenses and Incentive Award. This declaration is intended to supplement the moving papers and the Declaration of co-counsel, Eve-Lynn Rapp and incorporates the allegations therein with respect to the benefits of the settlement, the risks of the litigation and other facts relevant to the determination and award of fees.

DECLARATION OF KEVIN A. BAY IN SUPPORT OF
PLAINTIFF'S MOTION FOR AWARD OF ATTORNEYS'
FEES, EXPENSES AND INCENTIVE AWARD (16-cv-
01661-RSM) - 1

TOUSLEY BRAIN STEPHENS PLLC
1700 Seventh Avenue, Suite 2200
Seattle, Washington 98101
TEL. 206.682.5600 • FAX 206.682.2992

1 2. My firm has acted as co-counsel to Class Representative David Hanson and the
2 Settlement Class in this action. In that capacity, we were involved in and incurred time
3 working on the following activities:

- 4 • Reviewed facts and researched legal issues relevant to the case;
- 5 • Reviewed and participated in drafting complaint;
- 6 • Assisted in analysis of pre-emption issues;
- 7 • Participated in analyzing and responding to defendants' Rule 12 motion to
8 dismiss;
- 9 • Reviewed and assisted in other motion practice;
- 10 • Reviewed and commented on settlement terms.

11 3. Exhibit 1, attached hereto, is a table summarizing the time spent by my firm's
12 attorneys and professional staff who were involved in this action. It includes a description of
13 the tasks and work performed during such time. This summary was prepared at my request
14 from contemporaneous, daily time records regularly prepared and maintained by my firm. Our
15 firm reviews and edits these records on a monthly basis to ensure they are accurate and reflect
16 only time that is productive and reasonable.

17 4. Exhibit 2, attached hereto, is the lodestar calculation of the time spent by the
18 professionals in my firm multiplied by their respective hourly rates. The hourly rates for the
19 attorneys and professional support staff included in Exhibit 2 are the usual and customary
20 hourly rates that have been approved in other class action litigation in which we served as class
21 counsel.

22 5. Exhibit 3, attached hereto, is a table summarizing the expenses incurred by my firm
23 in this case. The expenses incurred in this action are reflected in my firm's books and records
24 which are prepared from expense vouchers, receipts, and other source materials and represent
25 an accurate recording of the expenses incurred.

26
DECLARATION OF KEVIN A. BAY IN SUPPORT OF
PLAINTIFF'S MOTION FOR AWARD OF ATTORNEYS'
FEES, EXPENSES AND INCENTIVE AWARD (16-cv-
01661-RSM) - 2

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7. The total number of hours my firm spent on this litigation from inception through September 28, 2018 is 29.6 hours. The total lodestar for my firm for this period is \$23,265.03.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 28th day of September, 2018, at Seattle, Washington.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 28th day of September, 2018, at Seattle, Washington.

TOUSLEY BRAIN STEPHENS PLLC

s/ Kevin A. Bay

Kevin A. Bay, WSBA #19821

6239/001/522160.1

Exhibit 1

Date: 09/28/2018

Detail Fee Transaction File List
Tousley Brain Stephens PLLC

Page: 1

		<u>Trans</u> <u>Date</u>	<u>Tmkr</u>	<u>Hours</u> <u>to Bill</u>	
Client ID 6239.001 Costco Wholesale Corporation					
		09/06/2016	KDS	0.80	Initial case review and analysis.
		09/07/2016	KDS	0.50	Reviewed and analyzed complaint.
		09/07/2016	KDS	1.40	Meeting with class representative and researched state law issues.
		09/08/2016	KDS	0.90	Worked on preemption issue; email and phone correspondence regarding same.
		09/08/2016	JTD	0.30	Reviewed prior gift card complaint and statute.
		09/08/2016	KDS	0.40	Class member meeting follow up.
		10/23/2016	KAB	1.20	Reviewed draft class action complaint for Hanson v. MGM/Costco.
		10/23/2016	KDS	0.30	Reviewed and revised complaint.
		10/24/2016	KAB	2.20	Conference with Kim Stephens regarding complaint and revisions thereto; brief research into Nevada Deceptive Practices Act and potential standing issue; attention to filing complaint and service of summons.
		10/24/2016	KDS	0.90	Revised complaint; reviewed Nevada law research.
		10/25/2016	KDS	0.30	Reviewed service issues.
		10/26/2016	KAB	0.50	Short call from Jamie Holz; forward Attorney General address to him; work with Krista to correct filing with federal court.
		10/27/2016	KAB	0.80	Reviewed pro hac vice applications; reviewed praecipe for summons; call from Channel 7 reporter; emailed Jamie Holz regarding same.
		10/28/2016	KAB	0.20	Reviewed Judge Jones standing order; email to Edelson counsel.
		10/31/2016	KDS	0.30	Conference with court clerk regarding pro hac vice applications.
		11/08/2016	KAB	0.50	Phone call and email from media; forward to Edelson for response; reviewed summons issued by court and contact Edelson regarding service of same.
		11/10/2016	KAB	0.40	Reviewed email from media and forwarded to Edelson; reviewed proof of service on both defendants; quick review of local rules regarding need to file proof of service.
		11/23/2016	KAB	0.30	Reviewed corporate disclosure statement; reviewed emails and stipulation extending defendants' time to answer complaint.
		01/13/2017	KAB	1.10	Reviewed defendants' Rule 12 motion to dismiss.
		01/13/2017	KDS	0.50	Reviewed motion to dismiss.
		01/23/2017	KAB	1.40	Reviewed defendants' Rule 12 motion to dismiss; conference with Kim Stephens regarding same; emailed Jamie Holz.
		01/27/2017	KAB	0.30	Emails with Eve-Lynn regarding stipulation to extend time to respond; call to chambers regarding same.
		02/09/2017	KAB	0.20	Emailed Eve-Lynn Rapp at Edelson.
		02/13/2017	KAB	0.90	Exchanged emails with Edelson regarding response to Rule 12 motion; emailed Kim S. regarding attempts to resolve case; reviewed stipulation and order to extend time to respond; attention to filing same.
		02/27/2017	KAB	2.20	Exchanged emails with Eve-Lynn Rapp regarding response to Rule 12 motion; reviewed and revised response brief; email to counsel.
		03/02/2017	KDS	0.50	Reviewed dismissal pleadings.
		03/16/2017	KAB	0.80	Reviewed reply brief filed by defendants.
		04/24/2017	KAB	0.60	Emails with Stewart Pollock regarding stipulation or motion to extend time to file motion for class certification; reviewed motion and declaration.
		05/03/2017	KAB	0.20	Reviewed defendants' response to motion to extend class cert deadline.
		05/04/2017	KDS	0.30	Reviewed pleadings concerning class certification deadline.
		05/17/2017	KDS	0.30	Reviewed case schedule deadlines.
		07/20/2017	KAB	0.30	Reviewed order on defendants' motion to dismiss; reviewed case scheduling order.
		07/20/2017	KDS	0.50	Reviewed order on motion to dismiss.
		07/21/2017	KDS	0.20	Reviewed scheduling order.
		07/28/2017	KDS	0.30	FRCP 26 discussion.

Date: 09/28/2018

Detail Fee Transaction File List
Tousley Brain Stephens PLLC

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	<u>Trans</u>		<u>Hours</u>	
	<u>Date</u>	<u>Tmkr</u>	<u>to Bill</u>	
Client ID 6239.001 Costco Wholesale Corporation				
	08/16/2017	KAB	0.20	Reviewed proposed stipulation extending deadlines for answer and initial disclosures.
	09/11/2017	KDS	0.30	Reviewed settlement offers and damages.
	09/12/2017	KDS	0.30	Status update for client.
	09/13/2017	KAB	0.30	Emails regarding conference; call to Eve Lynn-Rapp; short conference with Kim Stephens.
	09/14/2017	KDS	0.30	Retained Mr. Gibbons.
	09/15/2017	KDS	0.20	Reviewed settlement notice.
	11/01/2017	KDS	0.30	Telephone conference with Mr. Zabriskie regarding claims management.
	11/07/2017	KAB	0.60	Email to Edelson counsel regarding status of motion for approval of settlement; short conference with Kim Stephens.
	02/08/2018	KAB	1.20	Responded to Eve Lynn Rapp's email regarding motion; reviewed motion for preliminary approval of settlement.
	09/24/2018	KAB	0.20	Respond to Eve-Lynn Rapp's email regarding fees and costs.
	09/25/2018	KAB	0.20	Email from Eve-Lynn Rapp; reviewed motion for authority to file overlength brief.
	09/26/2018	KDS	0.30	Worked on final approval briefing.
	09/27/2018	KAB	2.40	Drafted fee declaration for motion to approve settlement; reviewed fee motion.

Total for Client ID 6239.001	Billable	29.60	Costco Wholesale Corporation
			MGM LITIGATION

GRAND TOTALS

Billable	29.60
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Exhibit 2

Tousley Brain Stephens PLLC
6239.001 Hanson v. MGM Litigation
Lodestar

(Inception thru 9/27/2018)

Fees

Name	Level	Hours	Rate/Hour	Total Fees
Kim D. Stephens	Partner	10.10	795	8,029.50
Jason T. Dennett	Partner	0.30	710	213.00
Kevin A. Bay	Partner	19.20	730	14,016.00
TOTAL		29.60		\$ 22,258.50

Costs

Reproductions	87.90
Filing Fees	852.00
Messengers	8.00
Computer Research	58.63
TOTAL	\$ 1,006.53

TOTAL FEES & COSTS

\$ 23,265.03

Exhibit 3

Date: 09/28/2018

Detail Cost Transaction File List
Tousley Brain Stephens PLLC

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Trans	Date	Tmkr	Rate	Units	Amount
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Client ID 6239.001 Costco Wholesale Corporation

10/25/2016	LMS	0.220	70.00	15.40	BW Reproductions
10/26/2016	KAB	0.220	23.00	5.06	BW Reproductions
10/28/2016	LMS	0.220	5.00	1.10	BW Reproductions
10/28/2016	LMS	0.220	23.00	5.06	BW Reproductions
01/18/2017	KAB	0.220	16.00	3.52	BW Reproductions
01/19/2017	KAB	0.220	23.00	5.06	BW Reproductions
02/27/2017	KAB	0.220	22.00	4.84	BW Reproductions
02/27/2017	KAB	0.220	6.00	1.32	BW Reproductions
02/28/2017	KAB	0.220	16.00	3.52	BW Reproductions
02/28/2017	KMS	0.220	23.00	5.06	BW Reproductions
07/24/2017	MWA	0.220	5.00	1.10	BW Reproductions
08/14/2017	KAB	0.220	23.00	5.06	BW Reproductions
08/15/2017	KAB	0.220	1.00	0.22	BW Reproductions
09/18/2017	KAB	0.220	15.00	3.30	BW Reproductions
02/12/2018	MWA	0.220	5.00	1.10	BW Reproductions
02/12/2018	MWA	0.220	24.00	5.28	BW Reproductions
02/12/2018	MWA	0.220	35.00	7.70	BW Reproductions
02/12/2018	MWA	0.220	44.00	9.68	BW Reproductions
08/01/2018	MWA	0.220	16.00	3.52	BW Reproductions

Subtotal for Tcode 110

Billable	86.90	Reproductions
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10/24/2016	KDS	400.00	Filing Fee - CCH TBS MASTERCARD - Washington Western District
10/27/2016	KDS	226.00	Filing Fee - CCH TBS MASTERCARD - Washington Western District - Pro Hac Application [Pollock]
10/27/2016	KDS	226.00	Filing Fee - CCH TBS MASTERCARD - Washington Western District - Pro Hac Application [Rapp]

Subtotal for Tcode 115

Billable	852.00	Filing Fee
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06/01/2017	KDS	8.00	Messenger HALO MESSENGER SERVICES, LLC - May 2017 [4/25/17]
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Subtotal for Tcode 120

Billable	8.00	Messenger
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10/31/2016	KDS	34.43	Computer Research - Thomson Reuters West Payment Center - Westlaw Searches and Reports 10/1/16 - 10/31/16
01/01/2017	KDS	3.20	Computer Research PACER SERVICE CENTER - Searches and Reports 10/1/16 - 12/31/16
04/01/2017	KDS	16.30	Computer Research PACER SERVICE CENTER - Searches and Reports 1/1/17 - 3/31/17
04/05/2017	KDS	2.00	Computer Research PACER SERVICE CENTER - Searches and Reports [KDS] 1/1/17 - 3/31/17
10/01/2017	KDS	0.40	Computer Research PACER SERVICE CENTER - Searches and Reports 7/1/17 - 9/30/17
04/01/2018	KDS	1.00	Computer Research - Pacer Service Center - Searches and Reports 1/1/18 - 3/31/18
07/01/2018	KDS	1.30	Computer Research PACER SERVICE CENTER - Searches and Reports 4/1/18 - 6/30/18

Date: 09/28/2018

Detail Cost Transaction File List
Tousley Brain Stephens PLLC

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<u>Trans</u>	<u>Date</u>	<u>Tmkr</u>	<u>Rate</u>	<u>Units</u>	<u>Amount</u>	
Client ID 6239.001 Costco Wholesale Corporation						
Subtotal for Tcode 155						
				Billable	58.63	Computer Research
02/28/2017	KMS	1.000		1.00	1.00	Color Reproductions
Subtotal for Tcode 210						
				Billable	1.00	Color Reproductions
Total for Client ID 6239.001				Billable	1,006.53	Costco Wholesale Corporation MGM LITIGATION
GRAND TOTALS						
				Billable	1,006.53	